

OPENING STATEMENT
of
ADA DEER, ASSISTANT SECRETARY - INDIAN AFFAIRS
on the
FY 1998 BUDGET REQUEST FOR THE BUREAU OF INDIAN AFFAIRS
before the
SUBCOMMITTEE ON INTERIOR APPROPRIATIONS
UNITED STATES HOUSE OF REPRESENTATIVES
April 15, 1997

Introduction

Good morning, Mr. Chairman and Members of the Committee.

Introduction to Indian Affairs

The Bureau of Indian Affairs (BIA) is the principal bureau within the Federal Government responsible for the administration of federal programs for federally recognized Indian tribes, and for promoting Indian self-determination. In addition, the BIA like all federal agencies has a trust responsibility emanating from treaties, statutes, judicial decisions and agreements with tribal governments. The mission of the BIA is to enhance the quality of life, to promote economic opportunity, and to carry out the responsibility to protect and properly manage the trust assets of Indian tribes and Alaska Natives. The BIA provides resources and delivers the kinds of services to support tribal government operations similar to those provided by state, city, and municipal governments. These services include, but are not limited to: law enforcement, social services, education, housing improvements, loan opportunities for Indian businesses, and leasing of land.

The BIA currently provides federal services to approximately 1.2 million American Indians and Alaska Natives who are members of more than 550 federally recognized Indian tribes in the 48 contiguous States and in Alaska. The BIA administers more than 43 million acres of tribally-owned land, more than 10 million acres of individually-owned land, and over 400,000 acres of federally owned land which is held in trust status.

The Bureau is headed by the Assistant Secretary - Indian Affairs, who is responsible for BIA policy. Reporting to the Assistant Secretary are the Deputy Assistant Secretary for Indian Affairs, the Deputy Commissioner of Indian Affairs, the Director, Office of Indian Education Programs and the Directors of the Offices of American Indian Trust, Self Governance and Audit and Evaluation. Day-to-day operations of the BIA are directed by a Deputy Commissioner of Indian Affairs, who has authority over 12 Area Offices, 83 Agency Offices, three subagencies, six field stations, and two irrigation project offices. The Director of the Office of Indian Education Programs has direct authority over 26 education line officers. At the end of FY 1996, the BIA's total employment was 10,672 full-time equivalents.

Streamlining

While increased tribal contracting of programs and the transfer of schools to tribal operation has resulted in a consistent decline in BIA staff over the last decade, the most significant change in Bureau staffing levels occurred in FY 1996 as a result of Congressional budget reductions. The number of BIA staff is at its lowest level in over 15 years; FTE levels have been reduced by more than 2,000 since 1995.

The BIA Central Office has been trimmed to a "residual" level where only trust and inherently federal functions remain. Management and administrative positions have been reduced bureau wide to levels at or below the ratios and proportions recommended by the National Performance Review. Budget specialists, acquisition specialists, accountant positions, and personnel specialists have all been reduced by significant numbers.

At the field level, many FTE reductions are taking place as a result of increased tribal contracting and self-governance compacting. One recent example is the Red Lake Agency in Minnesota, where the Red Lake Band of Chippewas is now contracting for all BIA funded programs resulting in the displacement of more than 70 Bureau employees. Another example is the Mississippi Band of Choctaws who are taking over all of the BIA facilities operations at the Choctaw Agency displacing 12 to 15 BIA employees. Many tribes which have not previously contracted with the BIA are issuing notices of intent to contract an entire agency, such as in the Albuquerque Area, or law enforcement programs, as has occurred at several agencies.

FY 1998 Budget Overview

The FY 1998 budget request for the BIA is \$1.73 billion in current appropriations, an increase of about \$126 million above the 1997 enacted level. The budget emphasizes the resources tribes need to provide basic reservation programs, develop strong and stable governments, ensure accreditation of Bureau schools, address critical infrastructure needs, and meet the Secretary's trust responsibilities. The BIA continues to keep administrative costs low; more than nine of every ten dollars appropriated to the BIA is provided directly to reservation programs.

While the BIA's role has changed significantly in the last two decades with an increasingly greater emphasis on Indian self-determination, Indian tribes still look to the Bureau to provide a broad spectrum of critical and complex services administered either by the tribes or the BIA: from an education system for an estimated 52,400 elementary and secondary students; to 24 tribally controlled community colleges; to law enforcement and detention services on more than 200 reservations; to social services programs for children, families, the elderly, and the disabled; to management of the forest, mineral, fishery and farmland resources on trust land; to the maintenance of more than 25 thousand miles of roads and bridges on rural and isolated reservations; to economic development programs in some of the more depressed areas in the U.S.; to the negotiation and implementation of legislated land and water claim settlements; to the replacement and repair of schools and detention centers; and to the repair of structural deficiencies on high hazard dams.

Operation of Indian Programs

In FY 1998, the total request for Operation of Indian Programs (OIP) is \$1.54 billion, an increase of \$105 million over the FY 1997 enacted level.

Within OIP, the single largest budget activity is tribal priority allocations (TPA) on which tribes depend for basic necessities and services such as law enforcement, child welfare, scholarships, natural resource management, and other programs critical to improving the quality of life and the economic potential of the reservations. Congress has given the tribes the flexibility to prioritize funds among TPA programs according to their unique needs and circumstances. TPA supports the goals of Indian self-determination by providing tribes with a choice of programs, as well as the means of delivery, either by the tribe or the BIA.

In FY 1998, TPA will comprise nearly half of the BIA operating budget. The TPA activity is funded at \$757 million, an increase of \$76.5 million over the FY 1997 enacted level, to help tribes address the unmet needs in basic programs. Shortfalls in these programs have become particularly serious with the reductions in this activity since 1995.

In FY 1998, the BIA will continue to operate as a highly streamlined and decentralized agency, with maximum resources going to tribal programs. The BIA has identified \$3.4 million that will be transferred to TPA programs in FY 1998. The BIA anticipates that about half of the FY 1998 operating budget will be spent directly by tribes which elect to operate various Bureau programs under self-determination contracts, grants, or self-governance compacts. Self-governance compacts, which give tribes greater flexibility to administer BIA programs, now number 60 and are expected to rise to more than 70 in 1998.

Congress continues to fund specific Indian Education programs in response to treaty requirements and federal statutes. Current Indian Education programs are governed by a number of laws, including the Snyder Act, the Johnson O'Malley Act, the Elementary and Secondary Education Act, the Tribally Controlled Community Colleges Assistance Act, the Tribally Controlled Schools Act, the Education Amendments of 1978, the Hawkins Stafford Act, and most recently, Goals 2000 and the Improving America's Schools Act. Collectively, these laws are aimed at ensuring quality education of Indian youth and improving the long-term employment and economic opportunities on reservations.

The FY 1998 budget includes a significant investment in Indian education. The request for School Operations, which will fund schools and dormitories serving an estimated 52,400 elementary and secondary students in 23 States, is \$467 million, an increase of \$16.8 million over FY 1997. The increase is needed to ensure that schools can deliver quality education, maintain accreditation, and provide safe and adequate transportation for an estimated three percent annual increase in enrollment. The BIA anticipates that between School Years 1996-97 and 1998-99, the student population will increase by more than 3,000.

The budget provides an additional \$3 million for operating grants to the 24 tribally controlled community colleges, which have been successful in providing college-age and adults with college

degrees and eventual professional employment. It is also anticipated that this increase will support Tribal Community Colleges as they provide job training, continuing education and GED's to those seeking employment due to *Public Law 104-193*, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Welfare Reform).

The budget includes trust investments crucial to saving additional costs in the out years. The BIA environmental management program is increased by \$3 million to begin to address the backlog of environmental cleanup work, which is estimated at approximately \$200 million. An additional \$1.5 million is needed for water rights studies and negotiation, as successful negotiations are always less costly than litigated claims. An additional \$3.4 million is requested to address the backlogs in adjudication and certification of title and ownership to Indian lands. Until the backlog is eliminated, trust income cannot readily provide an accurate and timely reflection of account holders' land interests and related revenues.

Construction

The request for the BIA Construction appropriation is \$125.1 million, with over one-third for Education Construction. In the last two years, the BIA has made progress in eliminating the unobligated balance in Construction facilities projects, mainly due to an increasing emphasis on tribal contracting for projects. The unobligated balance at the end of 1996 was the lowest in five years.

The Replacement School Construction program funds the replacement of older, unsafe, and dilapidated schools on reservations according to a Congressionally approved priority list, which is currently limited to 16 schools. In FY 1998, \$14 million is requested to construct the Many Farms High School in Arizona, the fourth school on the Priority List. The main facility was demolished due to structural building failure; therefore, the 400 children at Many Farms are attending school in portable trailers that are more than 17 years old and have now deteriorated to the point where children's safety could be at risk. The Education Facilities Improvement and Repair Program is funded at \$32 million and includes an increase of \$8 million to continue to address the \$682 million backlog of repair work in existing education facilities.

The budget also requests \$16.5 million, an increase of \$12 million above the FY 1997 level, for Public Safety and Justice construction. This activity funds detention centers on reservations and fire protection safeguards in schools and other facilities. Tribes cite law enforcement as a top priority; without adequate reservation detention facilities, offenders are prematurely released into the community. An increase of \$2 million is requested for facility improvement and repair of existing detention facilities. The budget also includes \$9.1 million for replacement of the Ute Mountain Ute Detention Facility in Colorado and \$1 million to complete the design of the facility to replace the Salt River Detention Center in Arizona. Inmates of the current Ute facility are housed in a building so overcrowded that the health and safety of the inmates are a serious concern. A recent consent decree requires the BIA to immediately address the overcrowded conditions at the Ute facility.

The budget includes \$22 million, an increase of \$4 million over FY 1997, for the correction of structural deficiencies of high hazard dams on Indian lands. The backlog of repairs to hazardous dams currently exceeds \$400 million. In FY 1998, the BIA will begin correction of high risk problems on dams in Wyoming, New Mexico, and Montana.

Indian Land & Water Claim Settlements and Miscellaneous Payments

The program provides payments to meet federal requirements for legislated settlements. The FY 1998 budget request includes \$59.4 million for payments for settlements resolving long standing tribal claims to water and lands. A large portion of the FY 1998 request is dedicated to the Ute Indian Rights Settlement, in order to move closer to the funding schedule set forth in the settlement.

Tribal Shares and the National Performance Review

The centerpiece of the National Performance Review Reinventing Government Phase II in the BIA is the tribal shares process. Along with the negotiated rulemaking process for self-governance compacts and self-determination contracts, the tribal shares process is the mechanism that the BIA is using to accelerate the transfer of program operations to tribes and, ultimately, to downsize and restructure the BIA. The tribal shares process builds on the Administration's commitment to the policy of self-determination and local decision making.

The first attempt to implement tribal shares was completed by a BIA team in February 1996. However, the process was delayed because consultation meetings with tribes revealed that tribes wanted full tribal participation in reviewing and determining inherently federal functions and their costs. The tribes feared that additional dollars identified for tribal shares would again be taken by the Congress for budget reductions as had occurred in FY 1996. Tribes were also disappointed by the relatively small amount of funding being made available for tribal shares which offered little financial incentive to choose to contract/compact BIA programs. Some small tribes were also concerned about the diminishing amount of resources available to provide for tribes which did not contract services from the BIA.

Since September 1996 the Deputy Commissioner authorized and directed the election of 24 tribal representatives, two from each of the 12 areas, to serve as members of a tribal workgroup to establish a mutually agreeable tribal shares determination process in partnership with the Bureau. The joint federal/tribal workgroup recently met and achieved consensus on their plan to publish a list of inherently federal functions in the Federal Register by May 1, 1997. During the 90-day comment period, May 1-August 1, 1997, three regional tribal consultation meetings will be scheduled to obtain feedback and explain the list of functions. A revised list of inherently federal functions will be published as final in September, 1997. The next phase of the tribal shares process is the identification of the costs associated with performance of the inherently federal functions, as well as the costs associated with functions available for contracting. The projected completion date is May, 1998.

Government Performance and Results Act

As required by the Government Performance and Results Act (GPRA) of 1993 (*Public Law 103-62*), the BIA intends to submit a final strategic plan to the Congress by the end of FY 1997. Based on a multitude of statutes, court rulings and treaty obligations, the plan will define the Bureau's long-term mission, broad goals and objectives. The program goals and objectives reflected within the budget justifications support these broad goals. In FY 1998, the BIA will complete the FY 1999 annual performance plan which will expand upon these programs goals by adding performance measures. These performance measures will help indicate the BIA's progress in meeting its mission as set forth

in the strategic plan.

The BIA has made progress in implementing a GPRA pilot project for forestry and ecosystem restoration in the Pacific Northwest. The project's strategy included tribal participation in prioritizing projects which has resulted in a noticeable improvement in the tribe's satisfaction with funding distribution. The BIA is continuing to refine its methodology of collecting accurate data to measure overall project performance.

Conclusion

The funds requested in the President's FY 1998 budget are critical to the health and well-being of tribal communities, tribal governments, and the tribal resource base. This funding will allow the Government as trustee to fulfill trust obligations and reduce the liability for failure to meet legally defined trust obligations.

This concludes my opening comments. My staff and I would be happy to respond to your questions.